

**Final Cable Television License**

TOWN OF FRANKLIN, MASSACHUSETTS

Effective Date March 17, 1997

## RENEWAL LICENSE AGREEMENT

THIS RENEWAL LICENSE AGREEMENT (hereinafter the "Renewal License"), made and entered into on the \_\_\_\_\_ of September in this year of 1997 by and between the Town of Franklin, Massachusetts, a municipal corporation of the Commonwealth of Massachusetts (hereinafter the "Town"), and CoxCom, Inc. (hereinafter the "Licensee").

### WITNESSETH

WHEREAS, pursuant to Massachusetts General Laws ch. 166A, the Town is authorized to grant and renew one or more nonexclusive revocable Licenses to operate, construct, maintain and reconstruct a cable television system within the Town; and

WHEREAS, the Town, after due evaluation of the Licensee, and after public hearings, has determined that it is in the best interest of the Town and its residents to renew the License held by the Licensee.

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### SECTION 1. GENERAL PROVISIONS

1.1 Definitions. Capitalized terms used in this Renewal License shall be defined as set forth in this document in section 1.3 unless (i) otherwise defined herein or (ii) the context otherwise requires.

1.2 Written Notice. All notices, reports or demands required or permitted to be given under this Renewal License shall be in writing and shall be deemed to be given when delivered personally to the party designated below, or when five (5) days have elapsed after any such notice, report or demand has been deposited in the United States mail in a sealed envelope, with registered or certified mail, postage prepaid thereon, or on the next business day if sent by express mail or nationally recognized overnight air courier addressed to the party to which notice, report or demand is being given, as follows:

If to Town:                   Wolfgang Bauer  
                                    Town Administrator  
                                    150 Emmons Street  
                                    Franklin, Massachusetts 02038

If to Licensee:           Vice President and General Manager

CoxCom, Inc.  
9 J.P. Murphy Highway  
West Warwick, Rhode Island 02893

Such addresses may be changed by either party upon written notice to the other party given as provided in this Section.

1.3 Glossary of Definitions. For the purpose of this Renewal License, the following words, terms, phrases and their derivations shall have the meanings given herein, unless the context clearly requires a different meaning. When not inconsistent with the context, the masculine pronoun includes the feminine pronoun, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. All capitalized terms used in the definition of any other term shall have their meaning as otherwise defined in this Section. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

(1) Access: The right or ability of any Franklin resident and/or any persons affiliated with any Franklin institution to use designated facilities, equipment and/or channels of the Cable Television System, subject to the conditions and procedures established for such use.

(2) Access Channel: A video channel which Licensee shall make available to the Town, without charge, for the purpose of transmitting programming by Franklin residents, Town departments and agencies, public schools, educational, institutional and similar organizations.

(3) Affiliate or Affiliated Person: Any Person who or which directly or indirectly controls and owns an interest in Licensee; any Person which Licensee directly or indirectly controls and in which Licensee owns an interest; and any Person directly or indirectly subject to control and owned in whole or in part by a Person who or which directly or indirectly controls and owns an interest in Licensee; provided, however, that this definition shall not be deemed to apply to any programming or publishing service provided by an Affiliate, carried in the normal course of business.

(4) Basic Service: The lowest service tier, other than a Pay Cable Service, distributed over the Cable System, which includes, without limitation, all Public, Educational and Governmental Access Channels and all broadcast Signals, if any, required to be carried on Basic Service pursuant to federal law, or this Renewal License to the extent it is not inconsistent with federal law.

(5) CMR: The acronym for Code of Massachusetts Regulations.

(6) Cable Act: The Cable Communications Policy Act of 1984, Pub. L. No.98-549, 98

Stat. 2779 (1984) (codified at 47 U.S.C. §§ 521-611(1982 & Supp. V 1987)) as amended by the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No.102-385, 102 Stat. 1460(1992) and the Telecommunications Act of 1996, Pub. L. No.104-104, 110 Stat. 56 (1996) and as the same may, from time to time, be amended.

(7) Cable Service:

1. The one-way transmission to Subscribers of Video Programming or Other Programming Service; and
2. Subscriber interaction, if any, which is required for the selection or use of such Video Programming or Other Programming Service.

(8) Cable Television System, System or Cable System means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community, but such term does not include:

1. A facility that serves only to retransmit the television signals of one or more television broadcast stations.
2. A facility that serves subscribers without using any public right-of-way;
3. A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, as it may be amended, except that such facility shall be considered a cable system (other than for purposes of 47 U.S.C. § 541(c) to the extent such facility is used in the transmission of video programming directly to subscribers unless the extent of such use is solely to provide interactive on demand services;
4. An open video system that complies with the Cable Act; or
5. Any facilities of any electric utility used solely for operating its electric utility systems.

(9) Channel or Cable Channel: A portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television channel as defined by the FCC by regulation.

(10) Council: The Town Council of the Town of Franklin.

(11) Converter: Any device changing the frequency of a Signal. A Subscriber converter may expand reception capacity and/or unscramble coded Signals distributed over the Cable System.

(12) Digital Compression Technology: A commercially proven technology within the cable television industry by which the Licensee may compress the existing channels, on a 5:1 basis (five NTSC channels can be transmitted on 6MHz or more), or such other ratio as the Licensee in its discretion may choose to utilize.

(13) Downstream Channel: A channel over which Signals travel from the Cable System Headend to an authorized recipient of programming.

(14) Drop or Cable Drop: The coaxial cable that connects each home or building to the feeder line of the Cable System.

(15) Educational Access Channel: A specific channel(s) or portion(s) thereof on the Cable System made available by Licensee to educational institutions and/or educators wishing to present non-commercial educational programming and/or information to the public.

(16) Effective Date: The effective date of the Renewal License, March 17, 1997.

(17) Execution Date: The execution date of the Renewal License, September \_\_\_, 1997.

(18) FCC: The Federal Communications Commission, or any successor agency.

(19) Franchise Fee: Includes any tax, fee or assessment of any kind imposed by the Town or other governmental entity on Licensee or the Subscribers, or both, solely because of their status as such. The term "Franchise Fee" does not include: (i) any tax, fee or assessment of general applicability (including any such tax, fee or assessment imposed on both utilities and cable operators or their services but not including a tax, fee or assessment which is unduly discriminatory against Licensee or Subscribers); (ii) capital costs which are required by this Renewal License to be incurred by the Licensee for PEG Access Facilities; (iii) requirements or charges incidental to the awarding or enforcing of this Renewal License, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or (iv) any fee imposed under Title 17 of the United States Code.

(20) Government Access Channel: A specific channel(s) or portion(s) thereof on the Cable System made available by Licensee to the Issuing Authority and/or its designees wishing to present non-commercial programming and/or information to the public.

(21) Gross Annual Revenues: Compensation, in whatever form, exchange, or otherwise, received by the Licensee for the provision of Cable Service over the Cable System within the Town defined as: Basic Service monthly fees; Pay Cable, Premium Service and Pay-Per-View fees; installation and reconnection fees; leased channel fees; converter rentals; fees received from independent programmers; and interest on subscriber deposits (unless returned to the subscriber) and advertising revenue. Gross Annual Revenues shall not include (1) any taxes on services furnished by the Licensee which are imposed upon any subscriber or user as opposed to Licensee) by the State, Town or other governmental unit and collected by the Licensee on behalf of said governmental unit; (2) Franchise Fees paid by Licensee to the FCC, the State or the Town and collected from Subscribers through charges to Subscribers; (3) programming revenues of any Affiliate whose programming is carried on the system where such revenues are paid to said Affiliate by the Licensee and recovered by the Licensee through charges to subscribers that are included in Gross Revenues; (4) to the extent consistent with generally accepted accounting principles, adjustments to cash receipts and non-operating cash receipts for bad debts, refunds, credit adjustments, returned checks and asset sales when such sales do not occur in the ordinary course of business; and (5) revenues of any Affiliate from the sale of merchandise or non-cable services, including subscriptions to periodicals, as a result of or due to advertising on the system.

(22) Headend: The electronic control center of the Cable System containing equipment that receives, amplifies, filters and converts incoming Signals for distribution over the Cable System.

(23) I-Net or Institutional Network: The separate single trunk network consisting of Upstream and Downstream Channels to a finite number of locations, said Channels for the noncommercial use of the Issuing Authority and its designees and for the use of the Licensee.

(24) Issuing Authority: The Town Council of the Town.

(25) Leased Channel or Leased Access: A video channel which the Licensee shall make available pursuant to Section 612 of the Cable Act.

(26) License: The license granted to Licensee by section 2.1(a) of this Renewal License.

(27) Licensee: CoxCom, Inc., using the name Cox Communications for business purposes, or any successor or transferee in accordance with the terms and conditions in this Renewal License.

(28) License Fee: The payments to be made by Licensee to the Town, which shall have the meaning as set forth in M.G.L. ch. 166A, § 9.

(29) NTSC: The acronym for the National Television Systems Committee.

(30) Normal Business Hours: Those hours during which most similar businesses in the Town are open to serve customers. In all cases, "Normal Business Hours" must include some evening hours at least one night per week and/or some weekend hours.

(31) Other Programming Service: Information that Licensee makes available to all Subscribers generally.

(32) Outlet: An interior receptacle, generally mounted in a wall, that connects a Subscriber's or User's television set to the Cable System.

(33) Pay Cable or Premium Services: Programming delivered for a fee or charge to Subscribers on a per channel basis, or as a package of services.

(34) Pay-Per-View: Programming delivered for a fee or charge to Subscribers on a per-program or time basis.

(35) PEG: The acronym for "public, educational and governmental," used in conjunction with Access Channels, support and facilities.

(36) PEG Access Channels: Any channel(s) or portion(s) thereof on the Cable System made available by Licensee to the Town for the use of Franklin residents and/or organizations wishing to present non-commercial programming and/or information to the public.

(37) Person: Any corporation, partnership, limited partnership, association, trust, organization, other business entity, individual or group of individuals acting in concert.

(38) Public Access Channel: A specific channel(s) or portion(s) thereof on the Cable System made available by Licensee to the Town for the use of Franklin residents and/or organizations wishing to present non-commercial programming and/or information to the public.

(39) Public Way or Street: The surface of, as well as the spaces above and below, any and all public streets, avenues, alleys, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, bulkheads, piers, dedicated public utility easements or any other easements or rights of way dedicated for compatible uses, and public grounds and/or waters and all other publicly owned real property within or belonging to the Town, now or hereafter existing. Reference herein to "Public Way" or "Street" shall not be construed to be a representation or guarantee by the Town that its property rights are sufficient to permit its use for any purpose, or that the Licensee shall gain or be permitted to exercise any rights to use property in the Town greater than those already possessed by the Town.

(40) Scramble/encode: The electronic distortion of a Signal(s) in order to render it unintelligible or unreceivable without the use of a Converter or other decoding device.

(41) Service: Any Basic Service or Standard (Cable) Service, any Pay (Cable) Service, or any other Cable Service, whether or not originated by the Licensee, which is offered to any Subscriber in conjunction with, or which is distributed over, the Cable System.

(42) Service Area: The entire geographic area within the Town as it is now constituted or may in the future be constituted, unless otherwise specified in this Renewal License, subject to the provisions of section 4.7 hereof.

(43) Signal: Any transmission of electromagnetic or optical energy which carries Video Programming from one location to another.

(44) Standard Cable Service: Any Service, other than Basic Cable Service or a Pay Cable Service, which is offered in combination with Basic Service to the extent not inconsistent with federal law.

(45) State: The Commonwealth of Massachusetts.

(46) Subscriber: Any Person, firm, corporation or other entity who or which elects to subscribe to, for any purpose, a Service provided by the Licensee by means of or in connection with, the Cable Television System.

(47) Subscriber Network: The 750MHz and/or Digital Compression Technology single trunk network to be owned and operated by the Licensee, over which Signals can be transmitted to Subscribers.

(48) System Completion: That point when the Licensee has provided written documentation to the Issuing Authority that its 400MHz Cable System has been fully upgraded to a 750MHz trunk, or Digital Compression Technology equivalent, and distribution system and that such new technology has been made available to one hundred percent (100%) of the residential households in the Town, subject to Section 4.7 hereof.

(49) Town: The Town of Franklin, Massachusetts.

(50) Town Attorney: The Town Attorney of the Town of Franklin, Massachusetts.

(51) Trunk and Feeder Cable Distribution System: That portion of the Cable System for the delivery of Signals, but not including Drop cables to Subscriber's residences.



(52) Upstream Channel: A channel over which Signals travel from an authorized location to the Cable System Headend.

(53) User: A Person utilizing the Cable Television System, including all related facilities for purposes of production and/or transmission of electronic or other Signals as opposed to utilization solely as a Subscriber.

(54) Video Programming or Programming: Programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

## **SECTION 2. RENEWAL OF LICENSE**

### **2.1 Grant.**

(a) Pursuant to the authority of Chapter 166A of the General Laws of the Commonwealth of Massachusetts, and subject to the terms and conditions set forth herein, the Town Council of the Town of Franklin, Massachusetts, as the Issuing Authority of the Town, hereby grants a non-exclusive, revocable cable television renewal license to the Licensee, authorizing and permitting the Licensee to upgrade, construct, install, operate and maintain a Cable Television System within the corporate limits of the Town of Franklin, Massachusetts.

(b) This Renewal License is subject to the terms and conditions contained in Chapter 166A of the General Laws of the Commonwealth of Massachusetts; the regulations of the FCC; the Cable Act; and all Town, State and federal statutes and ordinances of general application (together, "Applicable Law"). Unless otherwise specified, any reference to such Applicable Law, whether statutory or regulatory, shall be deemed to encompass the present terms thereof as amended from time to time during the term of this Renewal License.

(c) Subject to the terms and conditions herein, the Issuing Authority hereby grants to the Licensee the right to upgrade, construct, install, operate and maintain a Cable Television System in, under, over, along, across or upon the Public Ways under the jurisdiction of the Town within the municipal boundaries and subsequent additions thereto, including property over, under or on which the Town has an easement or right-of-way, for the purpose of cable television system reception, transmission, collection, amplification, origination, distribution, and/or redistribution of video, data, text, audio or other signals in accordance with Applicable Law.

(d) In exercising rights pursuant to this Renewal License, the Licensee shall not endanger or interfere with the lives of Persons, interfere with any installations of the Town, any public utility serving the Town or any other Persons permitted to use Public Ways and places. Grant of this Renewal License does not establish priority for use over other present or future permit holders or the Town's own use of Public Ways and places.

2.2 Right of Issuing Authority to Issue and Renew License. Licensee acknowledges and accepts the right of the Issuing Authority to issue and/or renew the License and Licensee agrees that it shall not now or at any time hereafter challenge any lawful exercise of this right by Issuing Authority in any local, State or Federal court.

2.3 Term. The term of this Renewal License shall commence on March 17, 1997 and shall expire on March 16, 2007, unless sooner terminated as provided herein or surrendered.

2.4 License Not Exclusive.

(a) Pursuant to applicable law, the Issuing Authority may award one or more franchises within its jurisdiction.

(b) In the event the Issuing Authority issues any subsequent or additional cable television license, such license shall be on terms no more favorable or less burdensome than the terms of this Renewal License or shall contain obligations of equal value to the value of provisions in this Renewal License, including but not limited to terms for (a) the payment of any franchise fees, (b) any payments for the support of public, educational, or governmental access programming, (c) any grants for capital equipment for public, educational or governmental access programming, (d) the provision of any service or service connections to schools or public buildings, (e) the construction of an I-Net, (f) the maintenance of an office in Franklin, and (g) customer service standards.

(c) To the extent that the terms of this Renewal License are less favorable and more burdensome to the Licensee than those of equivalent provisions of such subsequent or additional license(s), the Town, upon written request of the Licensee, after providing public notice, shall hold a public hearing to afford Licensee the opportunity to demonstrate the disparate nature of the terms of the additional license(s). Within 30 days following said hearing, the Issuing Authority shall issue a statement including its findings with regard to Licensee's claims. If the Issuing Authority finds the terms of the additional license(s) are less favorable and more burdensome, it shall take action to rectify said differences, including, but not limited to, amending the additional license(s) so that they are not on more favorable or less burdensome terms than the terms of this Renewal License or amending this Renewal License so that its terms are not less favorable or more burdensome than those of any additional license(s). This paragraph shall be subject to specific performance.

(d) In the event any multichannel programming provider offers video programming services directly to subscribers by any means in the franchise area, then to the extent such multichannel programming competitor is not currently or is not required to (a) pay for any franchise fee, (b) pay for the support of public, educational or government access programming, (c) make grants for public, educational or

governmental access facilities, (d) provide drops and service to public buildings, (e) construct an I-Net, (f) maintain an office in Franklin, or (g) comply with customer service standards, the Issuing Authority, upon written request of the Licensee citing this provision and requesting relief sought, after providing public notice, shall hold a public hearing at which it will consider the reasonableness of Licensee's request for relief from complying with the above mentioned requirements and afford Licensee the opportunity to demonstrate the disparate burdens and inequities on Licensee of having to comply with said requirements and the economic injury which has occurred or is likely to occur therefrom. Within 30 days of said hearing, the Issuing Authority shall issue a statement including its findings with regard to Licensee's claims. In the absence of any applicable federal law that occupies the field specifically aimed at equalizing competition or otherwise creating a "level playing-field" between municipally licensed and non-licensed multichannel programming providers, if the Issuing Authority finds the conditions that Licensee demonstrates in the hearing give rise to a substantial and material competitive disadvantage for the Licensee which Licensee cannot reasonably remediate through its own business practices, the Issuing Authority shall rectify said differences by modifying the License in such a manner as to relieve the Licensee of the burdens which are not imposed on or provided by the Licensee's competitors or by imposing similar requirements on the multichannel programming provider. If the Issuing Authority does not find that the conditions described by Licensee give rise to a substantial and material competitive disadvantage for the Licensee which Licensee cannot reasonably remediate through its own business practices, the Issuing Authority shall have no further obligations to modify this Renewal License.

### **SECTION 3. GENERAL REQUIREMENTS**

3.1 Not Franchise Fees. Licensee shall not apply or seek to apply or make any claim that all or any part of the Franchise Fees or other payments or contributions to be made by Licensee to the Issuing Authority pursuant to this Renewal License shall be deducted from or credited or offset against any taxes, fees or assessments of general applicability lawfully levied or imposed by the Town or any other governmental entity, including any such tax, fee or assessment imposed on both utilities and cable operators or their services.

3.2 Use of Consultants. Where there exists evidence which, in the reasonable judgment of the Issuing Authority, casts doubt upon the reliability or technical quality of Cable Service(s), the Issuing Authority shall have the right and authority to require the Licensee to test, analyze and report on the performance of the Cable Television System. The Licensee shall fully cooperate with the Issuing Authority in performing such testing and shall prepare the results and a report, if requested, within thirty (30) days after notice for the same.

Said report shall include the following information:

- tests;
- (1) The nature of the complaint or problem which precipitated the special tests;
  - (2) The system component tested;
  - (3) The equipment used and procedures employed in testing;
  - (4) The method, if any, in which such complaint/problem was resolved; and
  - (5) Any other information pertinent to said tests and analysis which may be required.

At the conclusion of said thirty (30) day period, additional tests may be required by the Issuing Authority, supervised by a professional engineer at terms satisfactory to both the Licensee and the Issuing Authority. The Issuing Authority shall pay for the costs of such engineer only if the tests performed show that the quality of service is at or above the standards established by the FCC in 47 C.F.R. § 76.605.

### 3.3 Liability Insurance.

At all times during the term of the Renewal License, including the time for removal of facilities provided for herein, the Licensee shall obtain, pay all premiums for, and file with the Issuing Authority, on an annual basis, copies of the certificates of insurance for the following policies:

(1) A general comprehensive liability policy naming the Town, its officers, boards, commissions, agents and employees as co-insureds on all claims on account of injury to or death of a person or persons occasioned by the construction, installation, maintenance or operation of the Cable Television System or alleged to have been so occasioned, with a minimum liability in the amount of one million dollars (\$1,000,000) for injury or death to any one person in any one occurrence and with two million dollars (\$2,000,000) for injury or death to two (2) or more persons in any one occurrence.

(2) A property damage insurance policy naming the Town, its officers, boards, commissions, agents and employees as additional named insureds and saving them harmless from any and all claims of property damage, real or personal, occasioned or alleged to have been so occasioned by the construction, installation, maintenance or operation of the Cable Television System, with a minimum liability in the amount of one million dollars (\$1,000,000) for damage to the property of any one person in any one occurrence and two million dollars (\$2,000,000) for damage to the property of two (2) or more persons in any one occurrence.

### 3.4 Indemnification.

(a) The Licensee shall, without charge to the Town, indemnify and hold harmless the Town, its officials, boards, commissions, agents and/or employees against all claims for damage due to the actions of the Licensee, its employees, officers or agents arising out of the construction, upgrade, installation, maintenance, operation and/or removal of the Cable Television System under this Renewal License, including without limitation, damage to persons or property, both real and personal, caused by the construction, upgrade, installation, operation, maintenance and/or removal of any structure, equipment, wire or cable installed.

(b) In order for the Town to assert its rights to be indemnified, defended, or held harmless:

(1) The Town must promptly notify Licensee of any claim or legal proceeding which gives rise to such right;

(2) The Town shall afford the Licensee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of such claim or proceeding, unless, however, the Town, in its sole discretion, determines that its interests cannot be represented in good faith by the Licensee; and,

(3) The Town shall fully cooperate with the reasonable requests of the Licensee in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding, subject to subparagraph (2) above.

(c) To the extent the Licensee makes payment pursuant to this section, it may require from the Town assignment of all right of recovery against any party.

(d) The Town shall, at its sole cost and expense, to the extent lawful for local governments, indemnify and hold harmless Licensee against any claims arising out of the Town's gross negligence in its use of the Cable System. Indemnified expenses shall include all out-of-pocket expenses such as attorney's fees and shall also include the reasonable value of any services rendered by the Town.

3.5 Licensee's Insurance. Licensee shall not commence any Cable System reconstruction work or permit any subcontractor to commence work until all insurance required under this Renewal License and by Applicable Law has been obtained. Said insurance shall be maintained in full force and effect until the expiration of this Renewal License.

3.6 Workers' Compensation Insurance. Licensee shall obtain and maintain Workers' Compensation Insurance for all of Licensee's employees, and in case any work is sublet, Licensee shall require any subcontractor similarly to provide Workers' Compensation Insurance for all of their employees, all in compliance with State laws, and to fully indemnify the Issuing Authority from and

against any and all claims arising out of occurrences on the work. Licensee hereby indemnifies the Issuing Authority for any and all costs, expenses (including attorneys' fees and disbursements of counsel), damages and liabilities incurred by the Issuing Authority as a result of any failure of either Licensee or any subcontractor to take out and maintain such insurance. Licensee shall provide the Issuing Authority with a certificate of insurance indicating Workers' Compensation coverage on the Effective Date.

### 3.7 Security Fund

(a) The Licensee shall maintain at no cost to the Town throughout the term of the Renewal License a faithful performance bond running to the Town, with good and sufficient surety licensed to do business in the State in the sum of one hundred thousand dollars (\$100,000) subject to subsection (c) below. Said bond shall be conditioned upon the faithful performance and discharge of all of the obligations imposed by this Renewal License.

(b) The performance bond shall be effective throughout the term of this Renewal License, including the time for removal of all of the facilities provided for herein, and shall be conditioned that in the event that the Licensee shall fail to comply with any one or more provisions of this Renewal License, or to comply with any order, permit or direction of any department, agency, commission, board, division or office of the Town having jurisdiction over its acts, or to pay any claims, liens or taxes due the Town which arise by reason of the construction, upgrade, maintenance, operation and/or removal of the Cable Television System, the Town shall recover from the surety of such bond all damages suffered by the Town as a result thereof; pursuant to the provisions of Section 3.8(c).

(c) After System Completion, said performance bond may be reduced to thirty thousand dollars (\$30,000).

(d) Said bond shall be a continuing obligation of this Renewal License, and thereafter until the Licensee has satisfied all of its obligations to the Town that may have arisen from the grant of the Renewal License or from the exercise of any privilege herein granted. In the event that the Town recovers from said surety, the Licensee shall take immediate steps to reinstate the performance bond to the appropriate amount required herein. Licensee shall replenish such bond within thirty (30) days of any such recovery. Neither this section, any bond accepted pursuant thereto, or any damages recovered thereunder shall limit the liability of the Licensee under the Renewal License.

(e) Nothing herein shall be deemed a waiver of the normal permit and bonding requirements made of all contractors working within the Town's right-of-way.

### 3.8 Procedure for Enforcing Renewal License.

(a) In the event that the Issuing Authority has reason to believe that the Licensee has defaulted in the performance of any or several provisions of this Renewal License, except as excused by Force Majeure, the Issuing Authority shall notify the Licensee in writing, by certified mail, return receipt requested, of the provision or provisions which the Issuing Authority believes may have been in default and the details relating thereto. The Licensee shall have thirty (30) days from the receipt of such notice to:

- (1) respond to the Issuing Authority in writing, contesting the Issuing Authority's assertion of default and providing such information or documentation as may be necessary to support the Licensee's position; or
- (2) cure any such default (and provide written evidence of the same), or, in the event that by nature of the default, such default cannot be cured within such thirty (30) day period, to take reasonable steps to cure said default and diligently continue such efforts until said default is cured. The Licensee shall report to the Issuing Authority, in writing, by certified mail, return receipt requested, at fourteen (14) day intervals as to the Licensee's efforts, indicating the steps taken by the Licensee to cure said default and reporting the Licensee's progress until such default is cured.

(b) In the event that the Licensee fails to respond to such notice of default and to cure the default or to take reasonable steps to cure the default within the required thirty (30) day period, the Issuing Authority or its designee shall promptly schedule a public hearing no sooner than fourteen (14) days after written notice, by certified mail, return receipt requested, to the Licensee. The Licensee shall be provided reasonable opportunity to offer evidence and be heard at such public hearing. Within thirty (30) days after said public hearing, the Issuing Authority shall determine whether or not the Licensee is in default of any provision of this Renewal License. In the event that the Issuing Authority, after such hearings, determines that the Licensee is in such default, the Issuing Authority may determine to pursue any lawful remedy available to the Town including the assessment of liquidated damages in accordance with Section 3.8(c).

(c) In the event the Issuing Authority finds that a material violation or breach exists and that Licensee has not cured the same in a satisfactory manner, has not diligently commenced correction of such violation or breach or has not diligently proceeded to fully remedy such violation or breach, Liquidated Damages shall be paid to the Issuing Authority, subject to Sections 3.8(a) and (b) above. Any such liquidated damages shall be assessed as of the date that the Licensee receives written notice, by certified mail, return receipt requested, of the provision or provisions which the Issuing Authority believes are in default; provided however, that such damages shall not be assessed during the period from the time Licensee responds to such notice until Issuing Authority determines that the Licensee is in default.

- (1) For failure to upgrade the Cable System in accordance with Section 4.1, four hundred dollars (\$400.00) per day that any such non-compliance continues;
- (2) For failure to comply with the FCC Customer Service Obligations in accordance with Section 7.12, Two Hundred dollars (\$200.00) per day that any such non-compliance continues
- (3) For failure to comply with filing deadlines as required by this Renewal License or by Applicable Law, Fifty Dollars (\$50.00) per day that any such non-compliance continues.

3.9 Reservation of Rights. No decision by the Issuing Authority or the Licensee to invoke any remedy under this Renewal License or under any statute, law or ordinance shall preclude the availability of any other such remedy.

3.10 Termination. Upon termination of this Renewal License by passage of time or otherwise, and unless (1) the Licensee renews its Renewal License for another renewal term or (2) the Licensee transfers the Cable Television System to a transferee approved or deemed approved by the Issuing Authority pursuant to Applicable Law, the Licensee shall remove all of its supporting structures, poles, transmission and distribution systems, and all other appurtenances from the Public Ways and places and shall restore all such areas to their original condition. If such removal is not completed within six (6) months after such termination, the Issuing Authority may deem any property not removed as having been abandoned and may dispose of any such property in any way or manner it deems appropriate.

3.11 Proceeding Upon Expiration or Revocation. In the event that this Renewal License is revoked, and all appeals have been exhausted, or that it expires, and that the Issuing Authority determines not to renew this Renewal License and all appeals have been exhausted, the Issuing Authority and the Licensee shall implement the provisions of Section 627 of the Cable Act, by transferring the cable system to the Town or a subsequent licensee in accordance with 47 U.S.C. § 547.

3.12 Police and Regulatory Powers. By executing this Renewal License, the Licensee acknowledges that its rights are subject to the lawful powers of the Town to adopt and enforce resolutions necessary to the safety and welfare of the public and of general applicability and not specific to this Renewal License or to cable operators. Any conflict between the terms of this Renewal License and any such exercise of the Town's police and regulatory powers shall be resolved in favor of the latter.

## **SECTION 4. SYSTEM UPGRADE**

### **4.1 Upgrade.**



(a) No later than June 30, 2000 and subject to Section 4.7 hereof the Licensee shall make available to all residents of the Town a minimum seven hundred and fifty Megahertz (750 MHZ) or the Digital Compression Technology equivalent Subscriber Network fully capable of carrying at least seventy-eight (78) NTSC video channels in the downstream direction and four (4) NTSC video channels in the upstream direction. Said 750 MHZ System or the Digital Compression Technology equivalent shall be designed for 550 MHZ of analog Signal transmissions, with 200 MHZ reserved for future digital or analog two-way transmissions, which may be subject to change at the discretion of the Licensee. In addition, Licensee shall, on or before December 1, 1997 remove reliance on the microwave link which it currently uses to deliver its signal to the Town. If Licensee has not completed the removal by January 1, 1998, it shall be subject to liquidated damages pursuant to Section 3.8(c)(1).

(b) Timely completion of the upgrade to 750 MHZ or the Digital Compression Technology equivalent is subject to extension by reason of force majeure, and is contingent upon the receipt of timely approvals of permits, easements and all other prerequisites to construction by the Town, governmental agencies, public utilities, property owners and vendors and other authorities provided such permits are pursued diligently by the Licensee. The Town will give the Licensee its full cooperation in securing all permits, access rights, sub-headend sites and other prerequisites to construction of the rebuilt system.

(c) Until System Completion, the Licensee shall continue to operate its four hundred Megahertz (400 MHZ) cable system, currently capable of providing fifty-two (52) downstream video channels.

#### 4.2 Standard/Non-Standard Installations.

(a) Subject to Section 4.7 and subsections (b) and (c) below, the Licensee shall make its service available to every residential dwelling unit and commercial establishment in the service area in the Town, regardless of the type of dwelling or establishment, or its geographical location unless legally prevented from doing so.

(b) Any dwelling unit within two hundred feet (200') of the existing Cable System plant shall be entitled to a standard aerial installation rate. Any aerial installation over 200 feet from the existing cable plant requiring trunk or distribution type construction shall be considered non-standard and provided at a rate based upon actual costs and a reasonable return on investment. The Licensee may reasonably charge Subscribers for non-standard or customized installations.

(c) Underground installation shall be considered standard and therefore subject to standard underground installation rates within 200 feet of the existing cable plant, provided no trunk or distribution type construction is required and subsurface is dirt or similar soft surface. Underground installations within 200 feet of

the existing cable plant requiring trunk or distribution type construction or involving a hard surface or that require boring through rock or under sidewalks-, street, flower bedding, etc., are considered non-standard installations and shall be provided at a rate based upon actual costs and a reasonable return on investment. Installations more than 200 feet from existing cable plant requiring trunk or distribution type construction or involving a hard (concrete, asphalt, etc.) surface shall be provided at a rate based upon actual costs and a reasonable return on investment.

#### 4.3 Future System Modifications.

(a) From time to time, at the Issuing Authority's discretion but not more than once a year, the Issuing Authority shall hold a performance evaluation session. All such evaluation sessions shall be open to the public. The purpose of said evaluation session shall be, among other things to review Licensee's compliance with the terms and conditions of this license and to hear comments and suggestions from the public. At any evaluation session, if requested by the Issuing Authority in writing pursuant to subsection (d) below, Licensee shall report on improvements to the Cable System, and on relevant technology being used in its systems on a national basis.

(b) At such evaluation session Licensee shall review with the Issuing Authority changes in relevant cable technology (as defined below) that might benefit Licensee's Subscribers. Such review may take into account relevant cable technology, the characteristics of the existing system, the benefits to Subscribers of any upgrade in relevant cable technology, the cost to Subscribers of any such upgrade, the technical feasibility of upgrading the existing system, the demand for such upgrade or change in technology, the remaining life of the license over which the cost of such upgrade would have to be amortized, Licensee's unamortized investment in the existing system, and additional factors that the Licensee or the Issuing Authority deem relevant.

(c) If; based on the review of relevant cable technology, the Issuing Authority and the Licensee determine that an upgrade or change in the technology of the Cable System is necessary, the parties shall amend this license to establish the terms and conditions for an upgrade or change in relevant cable technology, provided that the term of this license shall not be changed by any such amendment.

(d) For purposes of this section, "relevant cable technology" shall be defined as those technologies that the Licensee and the Issuing Authority in good faith agree to be included in this Renewal License, subject to 47 U.S.C. §§ 541(b) and 544(c).

(e) Nothing in this section shall be deemed to prohibit Licensee from upgrading its system with any cable television technology at its own discretion.

(f) At least 60 days prior to any such performance evaluation session and in order to provide Licensee with adequate time to prepare for such session, the Issuing Authority shall provide Licensee with a list of specific matters to be discussed at the session. At least 30 days prior to the session, Licensee will provide Issuing Authority with a list of additional matters to be discussed at the session. If there are material issue(s) raised at the performance evaluation session which are not, in the Issuing Authority's reasonable judgment, fully addressed at the session, then Licensee shall use its best efforts to report back to the Issuing Authority on such issue(s) within 30 days following the close of the performance evaluation session.

(g) Upon receipt of complaints, the Issuing Authority may request, and the Licensee agrees to supply, if available, the latest copies of reports such as the FCC proofs of performance and telephone statistics (e.g., for the location responsible for answering calls initiated in the Town, average daily calls, time spent on hold and numbers of uncompleted calls).

#### 4.4 Institutional Network.

(a) The Licensee shall continue to operate, maintain and repair its existing Institutional Network ("I-Net") to be utilized by the Town and Licensee. Licensee shall maintain the I-Net to meet FCC Technical Standards, 47 C.F.R. Part 76, Subpart K. Licensee shall make repairs to the I-Net within a reasonable time after notice of a repair need. The Licensee shall provide I-Net drops to the public buildings and/or institutions designated by the Issuing Authority in Exhibit A.

(b) Ninety (90) days prior to System Completion, Licensee and the Issuing Authority or its designee(s) shall meet to discuss anticipated use of the I-Net subject to the conditions of this Section 4.4. At that time, Licensee and the Issuing Authority, shall, subject to this Section 4.4 and specifically subsection (d) below, jointly develop a policy regarding allocation of channels on the I-Net, including the terms and conditions for use of any such channels.

(c) Licensee shall retrofit, modify, upgrade or rebuild the I-Net as necessary so that, upon System Completion, the I-Net shall be capable of transmitting, between public buildings and other institutions on the I-Net, among other things: electronic mail, data and interactive teaching. Licensee shall have no obligation to provide the Town with equipment necessary for any such uses of the I-Net.

(d) Upon System Completion, Licensee shall provide the Town with fifteen (15) Upstream Channels and 15 Downstream Channels on the I-Net for use by the Town or its designees for the purposes described in Section 4.4(f) below. If two (2) years after System Completion, the Town is not utilizing all of its channel capacity on the I-Net, Licensee may, upon written notice to the Town, utilize any such unused capacity. If Licensee is utilizing such capacity and the Town provides Licensee with written notification that it wants to use any or all of such capacity, then within (30) days, Licensee shall return any such requested capacity to the Town. In addition, not

more than once annually and during the session conducted pursuant to Subsection 4.3(a), if the Issuing Authority or its designee(s) are able to demonstrate a need for additional channel capacity on the I-Net, then Licensee shall allocate, during the term of this Renewal License, up to a total of five (5) additional Upstream Channels and five (5) additional Downstream Channels on the I-Net for use by the Town. If the Town can show Licensee that it is using all 20 Upstream Channels, Licensee will make reasonable efforts to make extra Channels available to the Town, provided no significant capital expenditure is required.

(e) Upon System Completion, the Town may utilize the I-Net for video and data transmission purposes among public buildings on the I-Net. In the event Licensee incurs increased maintenance costs above routine maintenance costs resulting from the Town's use of the I-Net for video and data transmission purposes, the Licensee may charge the Town for such increased maintenance costs. In determining Licensee's increased maintenance costs associated with the Town's use of the I-Net, Licensee shall equitably allocate its maintenance costs based on its records of all I-Net maintenance costs for the preceding twelve (12) months. This allocation of maintenance costs shall be discussed during the meeting described in Section 4.4(b) above. In the event that the Town seeks third-party vendors to manage its use of the I-Net, the Town shall give the Licensee the option of providing such management services, provided that such services are offered to the Town at a competitive rate in compliance with Applicable Laws.

(f) The Town and/or its designee(s) shall only use the I-Net for municipal and/or educational purposes, data transmission and/or other non-commercial purposes and not for sale or lease for non-municipal uses. Except with the written permission of the Licensee, the I-Net may not be used to transmit or receive any communication (in whatever form, whether video, audio, data, voice or otherwise) destined to or originating from any switched network, including, but not limited to, the facilities of any local or long distance telephone company, or any such communication for which the Licensee offers and can provide the Town transmission service; provided, however, that the requirement in this Section 4.4(f) of obtaining written permission to use the I-Net to connect to a switched network shall not apply to non-commercial, educational video and/or data services received by the Franklin School Department (the "School Department") or the Franklin Public Schools, unless the Licensee offers and can provide the same or better such non-commercial, educational video and/or data services to the School Department at the same or a lesser rate in compliance with Applicable Law. In the event that the Licensee offers and can provide such services at such rates, but the School Department declines the Licensee's services, the Licensee may charge the School Department for maintenance costs associated with the School Department's said use of the I-Net in accordance with Section 4.4(e) above. Nothing in this Section 4.4(f) shall require the Town to subscribe to or purchase any service which the Licensee may lawfully become in the business of providing. The Issuing Authority or its designees shall provide the Licensee with an annual written description of its uses of the I-Net.

(g) The I-Net shall be interconnected with the Subscriber Network at the Headend or such other location at the discretion of the Licensee. All remote I-Net transmissions shall be sent on an Upstream Channel to the Headend, or other location.

(h) The Licensee shall have the sole responsibility for maintaining the I-Net for the term of this Renewal License, except for equipment not directly under its control or ownership. The Licensee shall be responsible for all necessary inspections and performance tests of the I-Net.

(i) The Town and its designated I-Net users shall be solely responsible for any and all interface equipment owned by the Town and its designees including but not limited to, modems, routers, bridges, modulators, demodulators and associated computer and video production equipment. The Town may install its preferred equipment, provided, however, the data equipment to be used has been pre-approved by Licensee in advance of connection to the I-Net. Pre-purchase approval is recommended.

(j) Licensee shall determine and assign the transmit and receive frequencies for all I-Net users.

(k) The Issuing Authority shall designate an experienced data communications professional (i.e. MIS/LAN manager, network engineer, etc.) to be responsible and accountable to the Town for all set-up and ongoing operation of the Town's use of the I-Net.

(l) Any user who causes interference or renders the I-Net ineffective shall be notified and disconnected by Licensee.

(m) The Town shall hold the Licensee harmless under this Renewal License from any and all claims, actions and/or proceedings arising out of the actions of the Town, its designees or departments in transmitting, conveying or otherwise carrying, or failing to transmit, convey or otherwise carry, any and all data transmissions originated and/or generated by the Town on the I-Net or PEG Access channels made available to, and used by, the Town and/or its designee(s). The Town shall, without charge to the Licensee, defend any such claim, action or proceeding.

4.5 Emergency Alert Capability. Licensee shall at all times comply with Applicable Laws regarding the provision of an emergency alert system to transmit an emergency alert signal to all Subscribers in the event of disaster or public emergency.

4.6 Parental Control Lock. Licensee shall provide, for sale or lease, to Subscribers, upon request, a parental control locking device or digital code that permits inhibiting the video and audio portions of any Channels offered by Licensee.

#### 4.7 Geographical Coverage.

(a) The Cable Television System shall be extended to any and all areas in the Town containing twenty-four (24) homes per mile of cable plant or fractional proportion thereof. The measurement for line extensions will begin from the nearest point of existing feeder cable. Under normal operating conditions, Licensee shall provide Cable Service to any newly constructed subdivision in the Town meeting the density requirement in this Section 4.7(a) within 90 days of the receipt of a request to serve a Subscriber in such subdivision. Cox will also use its best effort to lay its cables while the developer has the common utility trench open, so long as there are no fees charged by the developer.

(b) Licensee shall extend the Cable System to all areas of the Town not covered under subsection 4.7 (a) upon request of the prospective Subscribers and based on the following cost calculation: The cost of wiring each such area shall be calculated by taking the actual cost of extending service to that area minus the average cost of extending service divided by the number of Subscribers in the area. For calculations under this section, the average cost of extending service shall be the average cost of extending service to an area with twenty-four (24) homes per mile of cable plant or fractional proportion thereof. The resulting cost shall equal the per Subscriber contribution for the line extension.

(c) Any potential Subscriber located in an area of the Town without cable television service may request such service from Licensee. In an area not covered by subsection 4.7(a), Licensee shall conduct a survey to determine the number of homes in the unserved area and shall inform each potential Subscriber of the possible contribution in aid of construction that would be charged. Following receipt of this information, if any Subscriber(s) request cable television service and agree to pay the contribution in aid described above, then Licensee shall provide cable television service to such subscriber(s) within 90 days of the Subscriber(s) request unless Licensee is prevented from doing so due to weather conditions or by other reason of force majeure. Said 90-day period shall commence when the Subscriber pays Licensee at least one quarter of the per-Subscriber contribution in aid of construction.

(d) During the three (3) year period commencing with the completion of a line extension pursuant to subsection (b), a pro-rata refund shall be paid to Subscribers who made a contribution in aid of construction as new Subscribers are added to the line extension; provided, however, that Licensee need only make reasonable efforts to locate such Subscribers. The amount of the refund shall be determined by application of the line extension formula in subsection (b), reducing the per capita contribution in aid of construction each time a new Subscriber is added. Any refunds due shall be paid annually to Subscribers entitled to receive such a refund.

4.8 Underground Facilities. At such times as telephone and electric utility lines are placed underground by the telephone and electric utility companies or are required to be placed underground by the Town, the Licensee shall likewise place its facilities underground, subject to M.G.L. ch. 166, § 22 et seq. Underground cable lines shall be placed beneath the pavement subgrade in compliance with applicable law. It is the policy of the Town that existing poles for electric and communication purposes be utilized wherever possible and that underground installation is preferable to the placement of additional poles.

4.9 Technical Standards. With respect to both the Subscriber Network and the I-Net, Licensee shall comply at all times with all applicable FCC Rules and Regulations, including, but not limited to, Part 76, Subpart K (Technical Standards), as they may be amended from time to time.

4.10 Right of Inspection. The Issuing Authority shall have the right to inspect all construction, reconstruction or installation work performed by Licensee under the provisions of this Renewal License and Applicable Laws, apart from inspections required by the Town's grant of location process, to ensure Licensee's compliance and to protect the health, safety and welfare of the Issuing Authority's citizens. Unless otherwise agreed in writing, the Issuing Authority shall give Licensee at least seven (7) days prior written notice of any such inspection. Licensee shall have the right to be present at any such inspection. Any such inspection shall not interfere with the Licensee's operations and the Town's inspector shall be paid by the Town.

4.11 Construction Maps. Upon request, the Licensee shall file with the Issuing Authority or its designee "as-built" maps of all existing, and newly constructed Cable System plant.

4.12 Tree Trimming. In the installation of amplifiers, poles, other appliances or equipment and in stringing of cables and/or wires as authorized herein, the Licensee shall avoid all unnecessary damage and/or injury to any and all shade trees in and along the Public Ways and places, and private property in the Town. The Licensee shall be subject to M.G.L. ch. 87. All tree and/or root trimming and/or pruning provided for herein shall be done pursuant to Applicable Laws.

4.13 Restoration to Prior Condition. Whenever the Licensee takes up or disturbs any pavement, sidewalk or other improvement of any Public Way or public place, the same shall be replaced and the surface disturbed restored in as good condition as before entry as soon as practicable. If the Licensee fails to make such restoration within a reasonable time, the Issuing Authority may fix a reasonable time for such restoration and repairs and shall notify the Licensee in writing of the restoration and repairs required and the time fixed for performance thereof. Upon failure of the Licensee to comply within the specified time period, the Issuing Authority may cause proper restoration and repairs to be made and the reasonable expense of such work shall be paid by the Licensee upon demand by the Issuing Authority.

## **SECTION 5. SERVICES AND PROGRAMMING**

5.1 Services and Programming. The Licensee shall provide the Issuing Authority with a list of programming services and other services offered, which list shall be attached hereto as Exhibit B (the "Services List"). The Services List shall include all applicable charges and pricing schedules. The Licensee shall not alter the number of program services or other services or any charges or pricing schedules without thirty (30) days prior written notification to the Issuing Authority and System Subscribers subject to Applicable Laws.

(a) Except as required by law, all programming decisions are at the sole discretion of the Licensee and may be subject to change from time to time.

(b) To the extent required by applicable law, the Licensee shall provide Basic Service, which shall include at least all broadcast television signals in the Franklin, Massachusetts area which Licensee is required to carry and the Downstream Channels for PEG Access use.

(c) The Licensee reserves its rights to Scramble or otherwise encode any cable channel(s) to protect the Licensee from unauthorized reception of its Signals to the extent allowed by applicable law.

5.2 Leased Channel Service. Licensee shall offer leased channel service on reasonable terms and conditions and in accordance with Applicable Laws.

## **SECTION 6. SUPPORT FOR LOCAL PEG ACCESS**

6.1 Licensee Support for PEG Access. Licensee shall provide the following support for public, educational and governmental (PEG) access within the Service Area:

(a) Licensee shall continue to operate and maintain the PEG Access/Local Origination studio which is currently used by the Franklin, Millis, Plainville and Norton PEG Access Users and by Licensee for local origination programming on a first-come, first-served basis, provided however, that the Licensee allocates all studio costs between Franklin, Millis, Plainville and Norton subscribers on a fair and equitable basis, in accordance with Applicable Law. If requested to do so by the Issuing Authority, the Licensee shall provide a written explanation of any such allocated PEG Access studio costs, in sufficient detail to enable the Issuing Authority to understand how such costs have been allocated as allowed herein or required by Applicable Law. The Licensee shall provide access to the studio for designated users during all periods that the building is open. The Licensee shall also use its best efforts to ensure that once an authorized user is within the studio he or she will be able to remain in the studio and have access to restrooms after the building closes.



(b) The Town and Licensee or its designee shall establish reasonable, nondiscriminatory, noncommercial policies, rules and regulations for the use of public, educational and government Access. In the event of conflicts involving use of said studio, the Licensee shall meet with the Issuing Authorities of Franklin, Millis, Plainville and Norton, and/or their designee(s) to equitably resolve such conflicts.

(c) Licensee shall supply the studio and other locations specified in Exhibit C with equipment which will provide the same or equivalent functionality as that listed in Exhibit C.

(d) Licensee shall continue to employ a local origination/access coordinator. The coordinator shall be a full time employee of the Licensee, and up to 100% of the coordinator's time, as needed, shall be spent on PEG access projects related to the Town. If, however, the coordinator's time is not fully utilized by PEG projects in the Town, then, as long as the Town's PEG access needs are being met, the coordinator will be available for other Cox projects.

(e) The local origination/access coordinator shall be responsible for coordinating the cablecasting of local origination and access programming, developing local origination programming, providing training in the use of access equipment and facilities to Town residents and organizations, scheduling use of access equipment and facilities, and providing schedules of programming carried on access channels to the local media provided that these schedules are provided to the local origination/access coordinator on a timely basis and Licensee incurs no expense for providing these schedules to said media outlets. Other than for local origination purposes, the coordinator shall not be required to produce or film any programming.

## 6.2 Drops and Service Provided to Public Buildings.

(a) The Licensee shall continue to provide, install and maintain a Subscriber Cable Drop and Outlet(s) and the monthly Expanded Basic Service including those non-premium, non-pay-per-view satellite Services, carried on the Cable System by the Licensee, without charge to the Town or any designated institution for such drops, outlets and/or services, to all public buildings along the cable route designated in writing by the Issuing Authority in Exhibit D.

(b) The Licensee's obligations hereunder shall be limited to standard, non-customized installations along the existing Cable System.

(c) Pursuant to M.G.L. ch. 166A, § 5(e), Licensee shall provide a cable drop and outlet(s) without charge to the Town to any police and fire stations, public libraries and other public buildings along the cable route which are designated in writing by the Issuing Authority.

### 6.3 Drops and Service to Public Schools.

(a) The Licensee shall continue to provide, without charge to the Franklin School Department (the "School Department"), one (1) Subscriber Cable Drop with the number of outlets indicated on Exhibit D and the monthly subscriber Cable Service, including those non-premium, non-pay-per-view satellite Services, carried on the Cable System by the Licensee, to all public schools listed in Exhibit D. Licensee shall also provide a drop and outlet(s) and the service indicated to any public school constructed in Franklin during the term of this Renewal License.

(b) The locations of said Drops and Outlets shall be coordinated between the Issuing Authority or its designee, the School Department and Licensee.

(c) The Licensee shall provide one (1) Converter with each Outlet if required for the reception of the Cable Service, without charge to the Town. The Licensee shall maintain such Outlets and Converters for normal wear and tear; provided, however, that the School Department shall be responsible for repairs and/or replacement necessitated by any acts of vandalism or theft.

### 6.4 PEG Access Channels.

(a) Upon the Effective Date, the Licensee shall continue to make available to the Town, three (3) Downstream Channels, on the Subscriber Network for PEG Access purposes.

(b) Upon System Completion, Licensee shall make available to the Town, one (1) additional Downstream Channel for PEG Access purposes.

(c) After System Completion, Licensee agrees that, during the term of this Renewal License, according to the following criteria, Licensee will make available to the Town one (1) additional Downstream Channel on the Subscriber Network for PEG Access purposes. In order to request such additional channel capacity, the Town must demonstrate that for any 120 day period during the year preceding its request, the total amount of original, locally produced, nonduplicative video programming or character generated messages of the type for which the channel is provided, occupied the PEG Access Channel 80% of the hours between 12 p.m. and 12 a.m.. If the Town's PEG Access channel capacity is substantially utilized in this manner, then it may request in writing that Licensee make available one additional channel. Evidence of existing channel capacity usage shall accompany any such request and shall include contemporaneous program logs maintained during the relevant period by the PEG Access group and the Town or its designee(s).

(d) Said PEG Access Channels shall be used to transmit PEG Access programming to Subscribers at no charge to Users, and shall be subject to the control and management of the Issuing Authority.

## 6.5 PEG Access Programming Funding.

(a) The Licensee shall provide an annual Franchise Fee payment to the Town for PEG Access purposes as described herein equal to a maximum of three percent (3%) of the Licensee's Gross Annual Revenues. Said funding shall be used for, among other things, salary, operating and other related expenses connected with PEG Access programming and operations. Such payments shall be included in the Franchise Fee for purposes of any applicable federal limitation on Franchise Fees. The Franchise Fee shall be payable quarterly within forty-five (45) days of the expiration of the preceding quarter, with the first "quarter" running from October 1, 1997 to December 31, 1997, and each quarter thereafter being a calendar quarter. Each payment shall be accompanied by a report in such form as the Town may reasonably request showing the computation of the Franchise Fee for the preceding year and such other relevant facts as may be required by the Town.

(b) Commencing on October 1, 1997, Licensee will begin collecting such fee at the rate of one percent (1%) of Licensee's Gross Annual Revenues. At any time after completion of the second year of this Renewal License, but no more than once annually, the Town may request in writing that the rate be redetermined up to the maximum limit of three percent (3%) of Licensee's Gross Annual Revenues. No more than sixty (60) days after receiving such written request, Licensee shall begin collecting such fee.

(c) Consistent with Section 622(h) of the Cable Act, any Person, including a Leased Access User, who distributes any Cable Service over the Cable System for which charges are assessed to Subscribers but not received by the Licensee, shall pay the Town an amount equal to the same percentage as the Franchise Fee as denoted in Section 6.5(a) and (b) of such Person's Gross Annual Revenues. If the Licensee collects revenues for said Person, then the Licensee shall also collect said percentage as denoted in Section 6.5(a) and (b) payment on the Gross Annual Revenues of said Person and shall pay said amounts to the Town along with the Licensee's access payments pursuant to Section 6.5(a) and (b) herein. If the Licensee does not collect the revenues for a Person that distributes any Service over the System, then the Licensee shall notify any such Person of this payment requirement and shall notify the Town of such use of the Cable System by such Person(s).

(d) The annual funding required herein for PEG Access programming is subject to the provision that all PEG Access programming produced in the Town with said funding shall be cablecast exclusively on one of the PEG Access Channels designated in Section 6.4 on the Licensee's Cable System in the Town unless permission otherwise is granted in writing by the Licensee; provided, however, that such PEG Access programming produced in the Town may be made available to other providers of video programming in the Town, if any, upon payment to the Town of equivalent annual consideration to that found in Section 6.5(a) herein.

## 6.6 PEG Access Facilities Funding.

(a) The Licensee shall provide equipment listed in Exhibit C, subject to Section 6.1(c). Said equipment shall be made available to the Town within ninety (90) days of the Execution Date.

(b) In addition to subsection (a) above, Licensee shall make available to the Town within 30 days of the Execution Date a one time grant in the amount of Fifteen Thousand (\$15,000.00) to purchase additional video equipment to be used by the School Department in consultation with the Cable Advisory Committee for the production and development of Educational Access Programming.

(c) The equipment and payments provided in Section 6.6 (a) and (b) for PEG Access is subject to the provision that all PEG Access programming produced in the Town with said funding shall be cablecast exclusively on one of the PEG Access channels designated in Section 6.4 on the Licensee's Cable System in the Town unless permission otherwise is granted in writing by the Licensee; provided, however, that such PEG Access programming produced in the Town may be made available to other providers of video programming in the Town, if any, upon payment to the Town of an equivalent equipment/facilities grant to that found in Section 6.6 (a) and (b) hereof.

**6.7 Report of Disbursements.** Within forty-five (45) days of the expiration of each year, beginning with the calendar year following the Execution Date, the Town shall submit to the Licensee a written report showing actual disbursements made of the funds Licensee gives the Town pursuant to this Article 6 for annual support for PEG access or for PEG access facilities funding and a detailed statement explaining the allocation of funds, the access needs, interests and operations of the various entities using the PEG access facilities. If upon review of this report, the Licensee determines that the use of any portion of the funds has not been directly related to PEG access, the Licensee may in writing request a hearing before the Issuing Authority. After such hearing, the Issuing Authority will respond to the Licensee in writing. If the Issuing Authority agrees with the Licensee, it shall take measures to see that such funds are expended appropriately in the future. If; upon receipt of a subsequent report, the Licensee again determines the use of any portion of the funds has not been appropriate, the Licensee may in writing, request another hearing before the Issuing Authority. If the Issuing Authority makes a finding in accordance with the Licensee's determination, it shall direct the Licensee to withhold an amount of PEG support or access facilities funding corresponding to the amount which is the subject of the dispute, until such time as safeguards are in place to assure use of such funds for PEG access support and facilities funding. If following the Licensee's second request for Issuing Authority remedial action, the Issuing Authority disagrees with the Licensee concerning the appropriateness of the use of funds, the matter may be referred to the Massachusetts Cable Television Commission upon written request of the Licensee, or to such other arbiter as may be agreeable to the parties.

## 6.8 Equipment Ownership.

(a) The Licensee shall own all PEG Access equipment purchased with funding pursuant to Section 6.6(a). The Licensee shall have the obligation to maintain, repair or replace all such PEG Access equipment as necessary due to damage from normal wear and tear and to maintain the function of any such PEG Access equipment.

(b) The Town shall own all Educational Access equipment purchased with funds provided by the Licensee pursuant to Section 6.6(b). The Town shall bear all obligations to maintain, repair and replace said equipment in its discretion. Licensee has no obligation to maintain, repair or replace any such equipment.

6.9 Censorship. Neither the Town nor the Licensee shall engage in any program censorship or any other control of the content of the PEG Access Programming, on the Cable System, except as otherwise required or permitted by Applicable Law.

6.10 Licensee's PEG Access Obligations. Except for the specific obligations of the Licensee regarding PEG Access in this Article 6 herein, the Licensee shall not have any other responsibilities for PEG Access.

6.11 Licensee's Financial Commitment. The Licensee in any event shall not be liable for a total financial commitment pursuant to this Renewal License and applicable law including but not limited to state and federal License Fees and Franchise Fees, and PEG access operating and capital expenses in excess of five percent (5%) of its Gross Annual Revenues.

6.12 PEG Access Programming. For the purposes of this Section, "non-commercial PEG Access Programming" means programming in any form, (1) which is produced by an individual whose primary purpose for producing or distributing the programming over the Cable System is not to promote or advance any for-profit business, or (2) which is produced by a company or other entity which is a non-profit entity, or (3) which does not have as its primary purpose the promotion or advancement of any for-profit business, or (4) for which no compensation, consideration or remuneration is paid or given to its producer to support its production or distribution. This shall not limit the ability of any individual or entity to support programming and receive donor acknowledgment consistent with FCC regulations.

6.13 Relocation of PEG Channels. If Licensee relocates any PEG Access Channel to a different channel number, Licensee shall reimburse the Issuing Authority up to \$1,000 per Channel for costs and expenses incurred by the Town for new or modified equipment necessitated by such relocation.

## **SECTION 7. REGULATION**

7.1 License Regulation. The License renewed under this Renewal License shall be subject to regulation by the Issuing Authority in accordance with all of the provisions of this Renewal License and applicable law.

7.2 Force Majeure. In the event the Licensee's performance of any of the terms, conditions, obligations or requirements of this Renewal License is prevented or impaired due to any cause beyond its reasonable control, such inability to perform shall be deemed to be excused for the period of such inability and no penalties or sanctions shall be imposed as a result thereof; provided Licensee has notified the Issuing Authority in writing within ten (10) days of its discovery of the occurrence of such an event. Such causes beyond Licensee's reasonable control shall include, but shall not be limited to, acts of God, civil emergencies and labor unrest or strikes, untimely delivery of equipment, inability of Licensee to obtain access to an individual's property and inability of Licensee to secure all necessary permits to utilize utility poles and conduit so long as Licensee utilizes due diligence to timely obtain said permits.

7.3 Rate Regulation. Nothing in this Renewal License shall in any way prevent the Issuing Authority from regulating any rates charged by Licensee pursuant to Applicable Laws. If the Issuing Authority elects to so regulate, the Issuing Authority shall follow the procedures outlined in Applicable Laws.

7.4 Publication. A written schedule of all rates shall be available upon request during business hours at the Licensee's business office. Nothing in this Renewal License shall be construed to prohibit the reduction or waiver of charges in conjunction with promotional campaigns for the purpose of attracting or maintaining subscribers.

7.5 License Fee Entitlement. Pursuant to M.G.L. ch. 166A, § 9, the Licensee shall pay to the Town, throughout the term of this Renewal License, a License Fee equal to fifty cents (\$.50) per Subscriber per year. The number of subscribers, for purposes of this section, shall be calculated on the last day of each calendar year of the term of this Renewal License.

7.6 Other Payment Obligations and Exclusions. The License Fee payments shall be in addition to and shall not constitute an offset or credit against any and all taxes or other fees or charges of general applicability which the Licensee or any Affiliated Person shall be required to pay to the Town, or to any State or federal agency or authority, as required herein or by law; the payment of said taxes, fees or charges shall not constitute a credit or offset against the License Fee payments all of which shall be separate and distinct obligations of the Licensee and each Affiliated Person. The Licensee herein agrees that no such taxes, fees or charges shall be used as offsets or credits against the License Fee payments.

7.7 Regulation of and Compliance with License Agreement. The Issuing Authority and/or its designee shall be responsible for the day to day regulation of the

Cable Television System, subject to applicable law. The Issuing Authority and/or its designee shall monitor and enforce the Licensee's compliance with the terms and conditions of this renewal License.

7.8 Non-Discrimination. The Licensee shall not discriminate against any Person in its solicitation, service or access activities, if applicable, on the basis of race, color, creed, religion, ancestry, national origin, geographical location within the Town, sex, affectional preference, disability, age, marital status, or status with regard to public assistance. The Licensee shall be subject to all other requirements of federal and State laws or regulations relating to nondiscrimination through the term of the Renewal License.

7.9 Subscriber Television Receivers. The Licensee shall not engage directly or indirectly in the business of selling or repairing television or radio sets, subject to applicable law; provided, however, that the Licensee may make adjustments to television sets in the course of normal maintenance.

7.10 Resolution of Future Disputes. To aid in the analysis and resolution of any future disputed matters relative to this Renewal License, the Licensee and the Town may, by mutual written agreement (both as to whether or not to hire and whom to hire), employ the services of technical, financial and/or legal consultants. All reasonable fees of any such consultant so hired shall, unless the parties otherwise agree in writing, and in advance of any such hiring, be paid equally by the Licensee and the Town.

7.11 Customer Service Office. For the entire term of this Renewal License, the Licensee shall maintain, operate and staff a full-time customer service office in the Town, for the purpose of receiving customer inquiries and complaints, made in person or by telephone, including without limitation, those regarding billing, Service, installation, equipment malfunctions and answering general inquiries. This office shall be open during Normal Business Hours.

7.12 FCC Customer Service Obligations. The Licensee shall comply with the FCC's Customer Service Obligations, codified at 47 U.S.C. Section 76.309, as they may be amended from time to time, which standards are attached hereto as Exhibit E, and made a part hereof.

7.13 Remote Control Devices. The Licensee shall allow its Subscribers to purchase, from legal and authorized parties other than the Licensee, own, utilize and program remote control devices which are compatible with the Converter(s) provided by the Licensee. The Licensee takes no responsibility for changes in its equipment which might make inoperable the remote control devices acquired by Subscribers.

7.14 Employee Identification Cards. All of the Licensee's employees entering upon private property, in connection with the construction, installation, maintenance and/or operation of the Cable System, including repair and sales personnel, shall be

required to wear an employee identification card issued by the Licensee and bearing a picture of said employee. If such employee(s) is not wearing such a photo-identification card and, as a result, is not admitted to a Subscriber's home, such visit shall be deemed to be a missed service visit by the Licensee.

7.15 Protection of Subscriber Privacy. The Licensee shall respect the rights of privacy of every Subscriber and/or User of the Cable Television System and shall not violate such rights through the use of any device or Signal associated with the Cable Television System, as required by applicable law.

7.16 Written Privacy Notice. At the time of entering into an agreement to provide any Cable Service or other service to a Subscriber, and annually thereafter to all Cable System Subscribers, the Licensee shall provide Subscribers with written notice, as required by Section 631(a)(1) of the Cable Act, which, at a minimum, clearly and conspicuously explains the Licensee's practices regarding the collection, retention, uses, and dissemination of personal subscriber information, and describing the Licensee's policy for the protection of subscriber privacy.

7.17 Request for Additional Information.

(a) At any time during the term of this Renewal License, upon the reasonable request of the Issuing Authority, the Licensee shall not unreasonably deny any requests for further information which may be required to establish the Licensee's compliance with its obligations pursuant to this Renewal License and subject to Section 7.18.

(b) In the event that Licensee surveys the Subscribers to test for response to particular programming preferences, or for other reasons, it shall, upon request of the Issuing Authority, share the results of its programming surveys provided that Licensee does not consider the questions or results proprietary.

7.18 Proprietary and Confidential Information. If the Licensee believes that any documentation requested by the Issuing Authority involves proprietary information, then the Licensee shall submit the information to its counsel, who shall confer with the Town Attorney for a determination of the validity of the Licensee's claim of a proprietary interest.

7.19 Entire Agreement. This instrument contains the entire agreement between the parties, supersedes all prior agreements or proposals except as specifically incorporated herein, and cannot be changed orally but only by an instrument in writing executed by the parties.

7.20 Captions. The captions to sections throughout this Renewal License are intended solely to facilitate reading and reference to the sections and provisions of the Renewal License. Such captions shall not affect the meaning or interpretation of the Renewal License.



7.21 Severability. If any section, sentence, paragraph, term or provision of this Renewal License is determined to be illegal, invalid or unconstitutional. by any court of competent jurisdiction or by any State or federal regulatory agency having jurisdiction thereof; such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof; all of which shall remain in full force and effect for the term of this Renewal License.

7.22 Acts or Omissions of Affiliates. During the term of this Renewal License, theLicensee shall be liable for the acts or omission of its, Affiliates while such Affiliates are involved directly or indirectly in the construction, upgrade, installation, maintenance or operation of the Cable Television System as if the acts or omissions of such Affiliates were the acts or omissions of theLicensee.

7.23 Renewal License Exhibits. Unless otherwise indicated, the Exhibits to this Renewal License, attached hereto, and all portions thereof, are incorporated herein by this reference and expressly made a part of this Renewal License.

7.24 Warranties. Licensee and the Issuing Authority each warrant, represent, acknowledge and agree that at or before the Execution Date, each has the requisite power and authority under Applicable Law and organizational documents and is duly authorized to enter into and legally bind each of them to this Renewal License and to take all actions necessary to perform all of its obligations pursuant to this Renewal License.

7.25 Applicability of Renewal License. All of the provisions in this Renewal License shall apply to the Town, the Licensee, and their respective successors and assignees.

IN WITNESS WHEREOF, this Renewal License is hereby issued by the Town Council of the Town of Franklin, Massachusetts, as Issuing Authority, and all terms and conditions are hereby agreed to by CoxCom, Inc.

The Town of Franklin, Massachusetts  
By the Town Council

CoxCom, Inc.

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Witnessed By:

EXHIBIT A

INSTITUTIONAL NETWORK SERVICES

Institutional network outlets to public buildings and/or institutions:

<u>Building</u>	<u>Address</u>	<u>No. of Ourlets</u>
Franklin High School	Oak Street	Four (4)
Horace Mann Middle School	Oak Street	Three (3)
J.F.K. Elementary School	Pond Street	Two (2)
Oak Street Elementary	Oak Street	One (1)
Davis Thayer School	W. Cenetral	Two (2)
Brick School	Main Street	One (1)
Parmenter School	Wachusett Street	One (1)
Remington-Jefferson School	Washington Street	One (1)
Ray Memorial Library	Main Street	Two (2)
Central Park Ter.	W. Park Street	One (1)
Municipal Building	Emmons Street	Three (3)
Fire Station	W. Central Street	Three (3)
Police Station	Panther Way	Three (3)
DPW Garage	Hayward Street	Two (2)
Sr. Citizen Center	W. Central Street	Two (2)
Horace Mann Museum	Washington Street	One (1)
Youth Center	East Street	One (1)
Tri County Vocational School	Pond Street	Three (3)
St. Mary's (Charter School)	Main Street	Two (2)
Dean College	Main Street	Three (3)
Town Common Bandstand	Main Street	One (1)
Veterans Memorial Rink	Panther Way	One (1)
Dean College of Performing Arts	School Street	One (1)

Any public school which may be constructed during the term of this license will receive one (1) outlet. The outlet for the Town Common Bandstand will be provided after the Town provides, at its expense, conduit from Main St. or Union St. to the Bandstand, but not before April 15, 1998. The Youth Center, Dean College Performing Arts and Ray Memorial Library will be completed within 30 days of the Execution Date. Licensee represents that all other locations presently have service

available. All locations defined in this Exhibit A shall have Institutional Network program capability.

## EXHIBIT B SERVICES LIST

See the lists of Broadcast Signals, Services and Products and Services Price List attached hereto and, as they may be amended from time to time, made a part hereof

**EXHIBIT C**  
**PEG ACCESS AND LOCAL ORINATION EQUIPMENT**

See the list of equipment attached hereto and made a part hereof. The items listed under the heading "Automatic Playback System" are to be configured in such a manner as to be accessible to a wheelchair-bound person.

EXHIBIT D  
SUBSCRIBER NETWORK SERVICE TO PUBLIC BUILDINGS

<u>Building</u>	<u>Address</u>	<u>No. of Ourlets</u>
Ray Memorial Library	Main Street	Two (2)
Central Park Terrace	W. Park Street	One (1)
Municipal Building	Emmons Street	Three (3)
Fire Station	W. Central Street	Three (3)
Police Station	Panther Way	Three (3)
DPW Garage	Hayward Street	Two (2)
Sr. Citizen Center	W. Central Street	Two (2)
Horace Mann Museum	Washington Street	One (1)
Youth Center	East Street	One (1)
Dean College	Main Street	Three (3)
Town Common Bandstand	Main Street	One (1)
Veterans Memorial Rink	Panther Way	One (1)
Dean College of Performing Arts	School Street	One (1)

All public buildings, other than the Town Common Bandstand, Veterans Memorial Rink, Dean College and Dean College Performing Arts, to be provided with free cable tv connections and Expanded Basic cable service. The outlet for the Town Common Bandstand will be provided after the Town provides, at its expense, conduit from Main Street or Union Street to the Bandstand, but not before April 15, 1998. The Youth Center, Dean College Performing Arts and Ray Memorial Library will be completed within 30 days of the Execution Date. Licensee represents that all other locations presently have service available.

EXHIBIT D (CON'T.)  
SUBSCRIBER NETWORK SERVICE TO PUBLIC SCHOOLS

<u>Building</u>	<u>Address</u>	<u>No. of Ourlets</u>
Franklin High School	Oak Street	Four (4)
Horace Mann Middle School	Oak Street	Three (3)
J.F.K. Elementary School	Pond Street	Two (2)
Oak Street Elementary	Oak Street	One (1)
Davis Thayer School	W. Cenetral	Two (2)
Brick School	Main Street	One (1)
Parmenter School	Wachusett Street	One (1)
Remington-Jefferson School	Washington Street	One (1)
Tri County Vocational School	Pond Street	Three (3)
St. Mary's (Charter School)	Main Street	Two (2)

The Licensee represents that all of the above locations currently have service available.



EXHIBIT E  
FCC CUSTOMER SERVICE OBLIGATIONS

See the copy of 47 C.F.R. § 76.309, attached hereto and, as it may be amended from time to time, made a part hereof.

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